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Indian Tribes of the Northern Region:

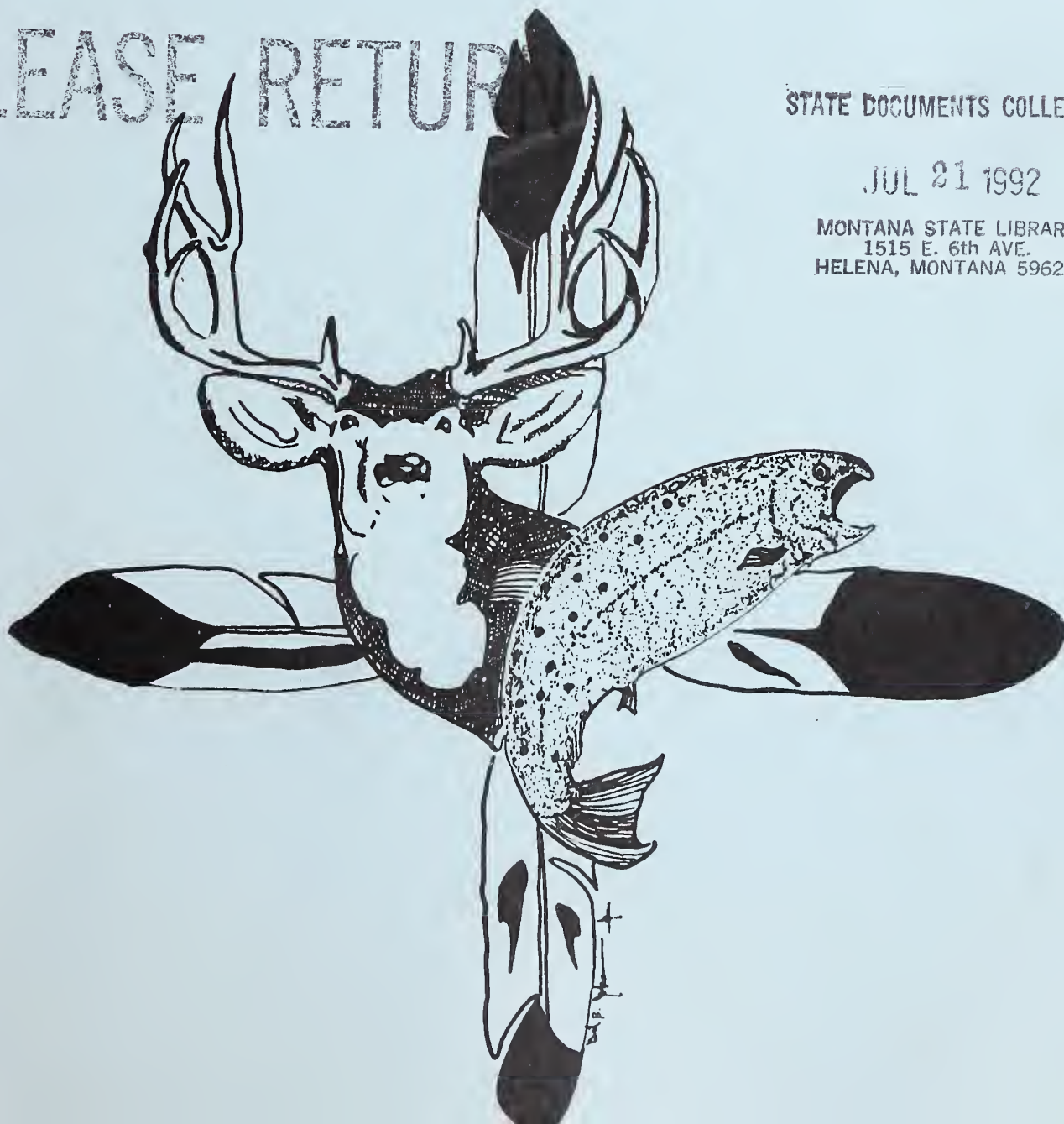
A Brief History,
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And
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Management Programs

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**INDIAN TRIBES OF THE NORTHERN REGION:
A BRIEF HISTORY,
DESCRIPTION OF HUNTING AND FISHING TREATY RIGHTS,
AND
FISH AND WILDLIFE MANAGMENT PROGRAMS**

Prepared By:

David B. Johnson
Fish Biologist
April 1990

United States Department of Agriculture
USDA Forest Service
Northern Region Office
Wildlife and Fisheries
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PREFACE

I would like to establish that this paper is an internal document. I have not asked for nor received permission by any of the tribes mentioned herein to represent them. I recognize that I do not have the ability to speak for any tribe or other tribal members, but I also know that there is a real need to present this type of information to Forest Service employees. This internal "white paper" appears to be an appropriate means to do so.

I'm grateful I was given the opportunity to work on this project. When I joined the Forest Service in 1989, I expressed a desire to stay abreast of tribal issues. I'm a member of the Navajo Tribe and have worked as a biologist for the Nez Perce Tribe and the BIA for the last several years. Tribal issues interest me. My supervisors in the Regional Office, Kirk Horn and Don Bartschi, conjured up the idea for this project earlier but never found someone with the desire to complete it. I guess I was in the right place at the right time.

I would like to acknowledge the tribal biologists and staffs, including Si Whitman, Paul Kucera and Keith Lawrence of the Nez Perce Tribe, Al Scholz of Upper Columbia United Tribes, Dale Becker and Ginger Thomas of the Confederated Salish and Kootenai Tribes and Ron Skates and Robbin Wagner of the U.S. Fish and Wildlife Service for offering information about tribal fish and wildlife programs in our interviews.

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Orofino, Idaho

November, 1990

INTRODUCTION

"What is man without the beasts?

If all the beasts were gone, man would die from great loneliness of spirit.

For whatever happens to the beasts also happens to man.

All things are connected."

Chief Sealth

Duwanish Tribe, 1855

A number of questions have been raised in the last few years about Native Americans and their use of fish and wildlife resources.

Why are there reservations and separate tribal governments?

Why can a particular tribe's members hunt and fish in a particular area and time?

Does this area have any significance to a particular tribe?

Why did the courts interpret this treaty in the manner it did?

Are there any tribal contacts that we should be aware of that are concerned with our fish and wildlife management?

The Northern Region Wildlife and Fisheries Unit developed this information paper in an effort to answer some of these questions.

The text is brief of necessity. There are volumes of literature on every aspect of Indian life and culture in most libraries. Curricula in many colleges are also devoted solely to these issues. The purpose of this paper is to provide only a glimpse into a complex world and history. By doing so, we hope to increase employee awareness of fish and wildlife issues pertinent to Indian tribes.

The first section describes some of the major eras of federal policy that have affected all tribes in general. It provides some background of Indian history probably not taught in public schools. Yet, these policies have, in some way, shaped every one of the Indian peoples in society today.

Subsequent sections focus on tribes that have recognized off-reservation hunting and fishing rights which can be exercised on on Forest Service lands in the Northern Region. These are the tribes on the Nez Perce, Coeur D'Alene, Kootenai, Flathead and Blackfoot reservations. Other tribes, most notably the Crow tribe, may contend that they, too, have reserved rights to hunt and fish on Forest Service lands.

The Crow tribe has never relinquished the right to hunt and fish off its reservation. However, these rights have never been tested in court nor have the rights been formally recognized by the State of Montana. It is anticipated that this situation will change in the future. For the purposes of this project, focus will remain on the tribes from the five reservations mentioned.

The second section briefly describes the individual histories of the above mentioned tribes. It describes some of the aboriginal and historic uses of fish and wildlife resources to help the reader understand what was important to a particular tribe. The aboriginal home range is identified in order to establish what specific locales may have significance. In addition, there is a synopsis of some historic events which have been important in shaping the character and condition of the tribes.

The third section explores hunting and fishing treaty rights, a subject that has caused considerable controversy over the years. The origination and extent of these rights are described for both on and off-reservation hunting and fishing. Some implied management responsibilities are also reviewed.

Section four is an overview of the structure and issues of tribal fish and wildlife programs. It is an introduction to tribal counterparts in fish and wildlife management. This may aid some Forest Service employees in working to strengthen cooperation with neighboring tribes.

Specific recommendations for improving Forest Service relationships with tribes, on fish and wildlife issues, are presented in section five. Findings from interviews with both tribal and Forest Service personnel were used.

And finally, attached to the document is a list of addresses to contact on tribal fish and wildlife issues. Names of specific individuals were omitted because, as in all organizations, people are transient. Someone at these places will be able to point to the right person to talk to.

SECTION ONE - THE TRIBAL-GOVERNMENTAL RELATIONSHIP

An understanding of the relationship between Indian tribes and the United States government is basic to an understanding of Indian tribes. Although each tribe has a distinct history shaped by its particular surroundings and circumstances, the attitudes and politics of the United States government have had an overwhelming influence on all Indian tribes in many of the same ways. This section follows the format of the *Handbook of Federal Indian Law* (Cohen, 1982) and *Indian Tribes as Sovereign Governments. A Sourcebook on Federal-Tribal History, Law and Policy* (AIRI, 1988) by dividing the history of tribal-federal relationship into six distinct eras. These are the eras of: pre-constitution, the formative years, allotment and assimilation, Indian reorganization, termination, and the present era of self-determination.

Pre-Constitution (1532 - 1789)

The period of European colonization of North America founded two important concepts central to the tribal-governmental relationship. The first is that in order for a country to gain Indian land, it must somehow be agreed to by the tribe involved. The second is that Indian tribes are recognized as unique, independent and sovereign governments, similar to other countries.

Underlying the first concept was a Spanish interpretation of the rights existing with discovery. In 1532, Francisco de Victoria, a leading intellectual and academic, advised the Emperor of Spain on Spanish rights in the western hemisphere (Cohen, 1982). De Victoria determined that the lands could not be claimed by the Emperor or the Pope via right of discovery since they were already inhabited (Cohen, 1982). Therefore, before Europeans could acquire land, consent must first be granted by the original inhabitants, the Indians. The document of consent or agreement enacted between the entities was most commonly, the treaty. Higher ideals notwithstanding, the necessity of getting along with the powerful Indian tribes, who outnumbered the European settlers for several decades, dictated that as a matter of prudence, the settlers buy land that the Indians were willing to sell rather than displace them by other methods (Cohen, 1982).

The principle that land could only be acquired through treaty was adhered to by other European nations as well. The ability to purchase or treat for lands was considered a responsibility of each sovereign, i.e. the European country and the tribe involved. This recognition of tribes as sovereigns is the basis for the "government-to-government relationship" which has received so much recognition in the present day.

The Formative Years (1789-1871)

The formative years, the major treaty making period, witnessed the establishment of governmental control over Indian affairs and the formation of Indian reservations. The era began with adoption of the U.S. Constitution and concluded with an 1871 statute declaring an end to treaty making.

The Constitution (article I, section 8) established that Congress would have broad powers over commerce with Indian tribes. Because of this, tribal treaties are afforded protection under the "Supreme law of the land"; and cannot be subordinated by subsequent state or territorial legislation. The Indian Trade and Intercourse Act of 1790, fortified powers of Congress. It declared that virtually all interactions between Indians and non-Indians would come under federal control; not just matters of commerce (AIRI, 1988).

The intent and philosophy of tribal treaties gradually changed with the development of the new nation. The first treaties were essentially peace treaties. They defined boundaries within which the settlers could live and made promises of peace so that the tribes and settlers could co-exist and maintain their ways of life. Later, the overriding goal of the treaties was to obtain Indian lands, particularly after these lands became encircled by non-Indian settlements (Cohen, 1982).

The reservation system was established in the 1830's. A policy was enacted by President Andrew Jackson's administration to remove Indians from land desired by white settlers to lands expressly reserved for tribes. At the time, the U.S. was operating from a position of superior strength and numbers; the tribes essentially had no recourse to what was offered. As can be imagined, the new reservations were smaller than aboriginal lands, many were not as productive and the removal policy fueled tribal resentment with the government.

Allotment and Assimilation (1871 - 1928)

The era of allotments and assimilation continued the trend of tribal land loss and resulted in a cultural loss as well. Two prevailing ideologies, those of the reformers and the settlers, were prominent in developing the legislation of the period. The reformers believed that by dividing reservations into individually owned parcels and providing plows and seed, Indians could adapt to the mainstream American society. The western settlers were hungry for land and resources present on the reservations. They felt if the land was divided into individual parcels, the surplus would be available for their use.

In 1887, the General Allotment (Dawes) Act established mandatory allotments of Indian reservations (Cohen, 1982). Individual parcels of land were divided up between the existing members of the tribes, usually in amounts that were deemed sufficient to engage in an agricultural way of life. The lands remaining, after the allotments, were opened to homesteading or purchase by settlers. Later, additional tribal lands were sold by tribal members or were lost due to their inability to pay the taxes. The eventual consequence of the allotment

act was the loss of 90 million acres of Indian land and the creation of a checkerboard land ownership pattern which plagues tribes to this day.

This era was also one of assimilation, a predominantly reformist idea. Assimilationists wished to civilize the Indian and draw them into the mainstream of American society. In order to do so, it was deemed necessary to end the tribe as a separate political and cultural unit, and replace the Indian's heritage with that of white America. Most of these efforts were aimed at the children. Extreme measures were taken to send them away to school, separating them from the influences of their parents and their culture. Back on the reservations, the Interior Department enacted criminal codes forbidding "...certain old heathen and barbarous customs..." including wearing hair long, having tribal funerals and engaging in certain dances and ceremonials (Cohen, 1982). Partly due to assimilation goals, Indians were made citizens of the United States by the Indian Citizen Act of 1924.

Reorganization (1928 - 1942)

The late 1920's and 1930's marked more tolerance and even some respect for traditional aspects of Indian culture (Cohen, 1982). Legislation on Indian affairs during the era was catalyzed by the Meriam report which described the poverty, disease, suffering and discontent within reservations and criticized the inefficient, paternalistic administration of Indian policy that neither encouraged nor supported self-sufficiency (Cohen, 1982). President Franklin Roosevelt appointed a new Commissioner of Indian Affairs, John Collier, who proposed a reorganization of the reservation system.

In 1934, the Indian Reorganization Act (IRA) was implemented. The IRA provided a means for tribes to establish their own tribal governments. In doing so, it encouraged economic development, self-determination, cultural plurality and a revival of tribalism (Cohen, 1982). One-hundred-eighty-one tribes accepted the IRA and adopted constitutions or federally chartered corporations (AIRI, 1988). Seventy-seven tribes rejected the IRA. They viewed the IRA's prescribed method for establishing tribal governments as perpetuating the paternalistic assimilation policy (AIRI, 1988).

In the long run, the IRA did much to acknowledge tribal autonomy. The opportunity to govern themselves took tribes out from under the discretionary supervision of the Bureau of Indian Affairs (BIA) reservation superintendents. The IRA ended the issuance of fee patents, sale of heirship lands and the allotment process (Cohen, 1982). Consolidation of tribal lands was emphasized by restoring surplus lands to tribal ownership. (Cohen, 1982). The IRA also established a revolving loan account for tribes to use in developing businesses, and established the Bureau of Indian Affairs policy of giving preference to hiring Indians in programs involving Indians.

Unfortunately, the Indian Reorganization Act was only given ten years to turn things around and substantially improve the condition on the reservations. Political misgivings, generated during Roosevelt's administration, resulted in a swing in the pendulum and a new administration began a program in the mid-1940's to terminate tribes.

Termination (1943 - 1961)

Discontent with the Roosevelt Administration's policies and economics encouraged Senate and House Committee reports critical of the IRA, the Bureau of Indian Affairs and Commissioner Collier (Cohen, 1982). Assimilation of the Indian into the national mainstream again became an issue, as well as reduction of federal expenditures (Deloria Jr., 1969). Legislation on terminating the federal relationship with tribes was initiated by a contingent of predominantly western legislators (Deloria Jr., 1969). The westerners had an interest in the vast amount of federal lands in the region (including reservations) and were particularly susceptible to pressures to develop land and resources during the post World War II economic boom (Cohen, 1982).

House Concurrent Resolution (HCR) 108 was adopted in 1953 by unanimous vote and dominated Indian affairs for this decade. Its intent was to discontinue the federal relationship and programs provided to tribes in order to bring Indians into the mainstream. In what was known as the "termination experiment", several tribes were singled out for implementing the termination policies. These include all the tribes of California, Texas, Florida and New York and singled out a number of other tribes (Cohen, 1982). The termination policies included: allowing sale of tribal land to third parties, discontinuing special federal programs for tribes and individuals (for example, health and education services), imposing state legislative jurisdiction and authority over tribes, eliminating exemptions from state taxes and ending tribal sovereignty (AIRI, 1988). In addition, Public Law (PL) 280, allowed states to extend jurisdiction to Indian Country and resulted in greatly diminished tribal sovereignty, even for the tribes who weren't singled out for termination (AIRI, 1988).

In 1946, the Indian Claims Commission was enacted which established a legal mechanism for tribes to sue the government for underpayment or nonpayment for Indian lands and mismanagement of tribal affairs. Although the Claims Commission finally offered a legal recourse to tribes, the many restrictions in the claims process worked to the detriment of tribal unity. First of all, the settlement of claims meant extinguishing any additional government fiscal responsibility for tribes (Cohen, 1982). In addition, only monetary awards were allowed for compensation, not actual recovery of lands (AIRI, 1988). The awards were distributed to individual tribal members rather than to tribes, so an opportunity to strengthen tribal economic bases was lost (AIRI, 1988). Finally, many tribes could not even accept the awards unless they agreed to terminate (Deloria Jr., 1969).

The termination policies were largely a failure for both the tribes and the government. As could be expected, large amounts of Indian lands were allowed to pass into non-Indian hands once more (Cohen, 1982). Tribal

economic development was largely ignored and the IRA was repealed (Cohen, 1982). Indians were encouraged to seek employment off the reservation and forced assimilation again became an issue. Although termination was favored as a cost reduction program, the BIA's budget rose from \$37 million in 1947 to \$87 million in 1953 in order to subsidize transfer of service responsibilities to the states (Cohen, 1982).

Self-Determination (1961 - Present)

Several factors acted to end the termination era. Tribes began organizing and presented a unified front against the common threat of termination. The civil rights movement, in the late 1950's and 1960's, increased public perception of the concerns of different social and cultural entities. The failure of the termination experiment to reduce fiscal deficits and force assimilation was also evident, even to western legislators who initially supported the actions (Cohen, 1982). Consequently, society has gradually moved back to expanding the basic idea underlying the reorganization era, i.e. Indian tribes are the basic governmental units of Indian policy (Cohen, 1982).

Clarification and advancement of Indian rights and authority have advanced in several arenas. In Congress, the Indian Civil Rights Act, passed in 1968, allowed states that had assumed jurisdiction (under PL 280) to transfer back that jurisdiction to the tribes and federal government (AIRI, 1988). The Indian Self-Determination and Education Assistance Act (PL 93-638) of 1975, encourages tribes to assume administrative responsibility for federally funded programs by contracting out programs previously administered by the BIA and the Indian Health Service (AIRI, 1988). Legislation on the American Indian Religious Freedom Act of 1978, recognizes the importance of traditional Indian religious practices and directs all federal agencies insure that policies not abridge the free exercise of Indian religions (AIRI, 1988). Legislation has also been enacted to restore federal status to many of the tribes that were terminated in the 1950's.

The judicial system has been extremely active in defining Indian rights and authorities during this era. Examples of decisions which resulted in limiting tribal powers include the findings that: tribes cannot exercise criminal jurisdiction over non-Indians, tribes cannot regulate hunting and fishing by non-Indians on non-Indian lands within the reservation unless an important tribal interest is at stake, and that Indian water rights cases may be heard in state as well as federal courts (AIRI, 1988). On the other hand, cases which established important principles in favor of Indians are: that PL 280 does not confer authority upon states to tax Indians or Indian property on reservations, that civil cases between tribes and tribal members must proceed in tribal forums, including tribal courts, and, as will be discussed later, that treaties guaranteeing hunting and fishing rights are extremely strong (AIRI, 1988).

Tribes have also seized the opportunity of the era and exercised their power to a much greater degree. The number of tribal courts has increased and the courts have become increasingly professional (AIRI, 1988). Tribal councils have been active in establishing ordinances dealing with issues such as zoning, air and water

pollution, watershed management, hunting and fishing regulation and taxation (AIRI, 1988). In addition, tribal councils have become more sophisticated and have emerged as an important political power in social and resource issues (AIRI, 1988).

SECTION TWO - TRIBAL BACKGROUNDS

NEZ PERCE TRIBE

Historically, the Nez Perce, a Shahaptian speaking people, were one of the largest Plateau tribes in the Northwest (Walker Jr., 1978). They occupied a territory that included all of the Clearwater drainage, the Wallowas, and the upper portion of the Salmon River drainage. They grouped in small villages or bands of 30 to 200 individuals including several related extended families (Walker Jr., 1978). Their villages were along the many main river tributaries such as the South and North Forks of the Clearwater, the Grande Ronde, the Snake and Salmon Rivers (Walker Jr., 1978). Groups of bands that were fairly close to one another formed larger, composite bands centered around Kamiah, Lapwai, the Grande Ronde and Alpawai (Walker Jr., 1978). Their environment was diverse, including dry river bottoms, river breaks, shortgrass palouse country and the deeply forested Bitterroot divide.

The Nez Perce were, first and foremost, fishermen, although they utilized most of the abundant resources of their country for subsistence (Walker Jr., 1978). The waters of the Nez Perce country were fished for chinook, silver, chum and sockeye salmon and bull, cutthroat, rainbow and steelhead trout (Walker Jr., 1978). They also ate non-salmonids: suckers, lampreys, whitefish, squawfish and sturgeon. (Walker Jr., 1978). Camas roots were a mainstay of their diet and other roots such as bitterroot, kouse, wild carrot and wild onion, were eaten (Walker Jr., 1978). Berries, such as huckleberries, serviceberries, gooseberries, hawthornberries, thornberries, currants and chokecherries, were harvested in the late summer and fall (Walker Jr., 1978). Pine nuts, sunflower seeds and black moss were also available (Walker Jr., 1978). The Nez Perce hunted most of the game within their country including deer, moose, elk, sheep and black and grizzly bears. A number of small game and birds were also snared or shot by the Nez Perce (Walker Jr., 1978).

As was true of most Indian people, life was circular, evolving around the seasons of the year. In the early spring, when food stores were depleted, new life was awakening and the Nez Perce ventured from their more permanent winter villages on snowshoe hunts or forays down the Columbia to intercept the early runs of salmon (Walker Jr., 1978). There, they fished in common and traded with a number of Columbia River tribes. When the fish moved into the Nez Perce country, the people fished their own established sites, usually at the mouths of tributaries (Walker Jr., 1978). Their techniques included, communal traps and weirs, netting, spearing and hook and line (Walker Jr., 1978). Most communal efforts were conducted under the guidance of head fishermen who distributed the catch and performed the proper ceremonies to insure continuance of the runs (Walker Jr., 1978).

In the spring, when roots were ripening In the lower river, groups of women and children began digging and gathering roots other women split, dried and stored the fish taken by the men (Walker Jr., 1978). As summer progressed, the Nez Perce collected their summer dwellings and utensils and followed the fish run upstream where later growing roots and berries were also available (Walker Jr., 1978).

During the fall, salmon runs were fished with greater intensity and hunters sought big game to stock up for the winter (Walker Jr., 1978). Deer and elk were taken in communal efforts by herding the animals into a central area where they could be harvested more easily (Walker Jr., 1978). Nez Perce hunters also chased elk and deer into the rivers or other bodies of water where they were killed by hunters in canoes (Walker Jr., 1978). By November, the bands had moved back downriver to the warmer climates in the river bottoms; where the Nez Perce settled into their large lodges for the winter months (Walker, 1973). This subsistence pattern was changed when the horse came to the Nez Perce Country.

The arrival of the horse in North America brought on rapid changes in the Nez Perce way of life and that of practically every other western tribe (Haines, 1955). The horse was first introduced to this country in the 17th century from southerly tribes who had earlier exposure to the Spaniards (Haines, 1955). Horses allowed all Indians to become much more mobile and to interact with other tribal entities. These interactions increased trade, sharing of cultural customs and inter-tribal conflicts.

The Nez Perce established a lively commerce, gaining and trading goods with many Columbia River tribes, the tribes of western Montana and even the Plains groups. The Nez Perce bands east of Lapwai adopted buffalo hunting as part of their subsistence livelihood, following the Lolo trail over the Bitterroot Mountains into Montana (Ruby and Brown, 1986). There, they allied with the Salish-speaking Flatheads and Pend Oreilles for hunting forays and protection against the Blackfeet and other Plains tribes (Ruby and Brown, 1986). Friction also became more common with their neighbors to the south, the Shoshone, Bannocks and Paiutes (Ruby and Brown, 1986).

The procession of white men across Nez Perce country began with the dawn of the 1800's. In 1806, Lewis and Clark first contacted the Nez Perce (noting that they were a kind, intelligent and sharing people) (Haines, 1955). A few years later, trading posts established by Canadians and Americans, and the trappers that they employed, influenced Nez Perce life and trade. By the mid 1830's, the Nez Perce were familiar with a way of life and a people that, for the most part, resided far away to the east.

A mission was established by Henry Spalding in 1836 near Lapwai at the request of the Nez Perce (Ruby and Brown, 1986). Asa Smith established a mission at Kamiah in 1839 (Ruby and Brown, 1986). Originally, missionaries were sought for the magic or medicine they seemingly possessed (Haines, 1955). They taught some fundamentals of reading and writing and introduced a farming way of life to those who wanted it (Haines, 1955).

The Nez Perce signed their first treaty in 1855. Isaac Stevens, Governor of the Washington territory and Indian agent for the Northwest was traveling throughout the territory to map a route for construction of a transcontinental railroad. He contacted several tribes at Walla Walla in hopes of segregating Indian tribes from the encroaching white settlers and reducing the potential for conflict (Ruby and Brown, 1981). At Walla Walla, the Nez Perce defined the boundaries of their territory and a 7.7 million acre reservation was established (Ruby and Brown, 1986). The land reserved in this treaty is shown in Figure 1. In exchange for the treaty, the United States promised to deliver various articles of civilization including schools, agricultural implements and sums of money.

The treaty of 1855 was not in effect long. By 1860, the United States finally made good on their promises and delivered some of the articles described in the treaty (Haines, 1955). That year gold was discovered on the Nez Perce Reservation near Orofino, Idaho. This resulted in a horde of trespassers and led to inevitable conflicts and disputes between the Indians and the whites (Haines, 1955). The town of Lewiston was established, and it became dependent on the gold trade. Townspeople, fueled by a "manifest destiny" attitude, and fear of a loss of profits, encouraged further trespass and settlement on Indian land (Haines, 1955).

In order to accommodate the desires of the whites for Nez Perce land, a new treaty was drawn up between some of the tribal leaders and the United States (Haines, 1955). This 1863 treaty, reduced the Nez Perce lands to a 780,000 acre area (Figure 1). Not all bands were party to the treaty (Haines, 1955). Nez Perce leaders who did not participate in the 1863 treaty were distrustful of the United States because they had not received any benefits from the 1855 treaty and, by then, had plenty of evidence of the ephemeral nature of promises (Haines, 1955).

The notorious Nez Perce War occurred in the later part of the 1870's. In 1873, a treaty was drawn up for some of the Nez Perce bands in the Wallowa country, but was withdrawn two years later. Consequently, bands of Nez Perce residing in the Wallawas were ordered to relocate in 1877 to the reservation delineated in the 1863 treaty (Haines, 1955). These bands were in the process of moving to the new reservation when several young men attacked and killed settlers in the White Bird country (Haines, 1955). The bands, consisting of more than 500 people under the leadership of Looking Glass, White Bird and Joseph, were fearful of repercussions and fled from the country. They first attempted to join with ally tribal bands in Montana, but then moved on towards Canada. They were relentlessly pursued by the Army and ended up making their last stand a short distance from the Canadian border in the Bear Paw Mountains of Montana. Three hundred-seventy-five Nez Perce were captured four months after beginning their flight and sent to Indian Territory in Oklahoma (Ruby and Brown, 1986).

After the war, further duress and congressional action forced the tribe into selling much of the reservation during the Allotment Era of the late 1880's and 1890's. During this time, the reservation was allotted in parcels

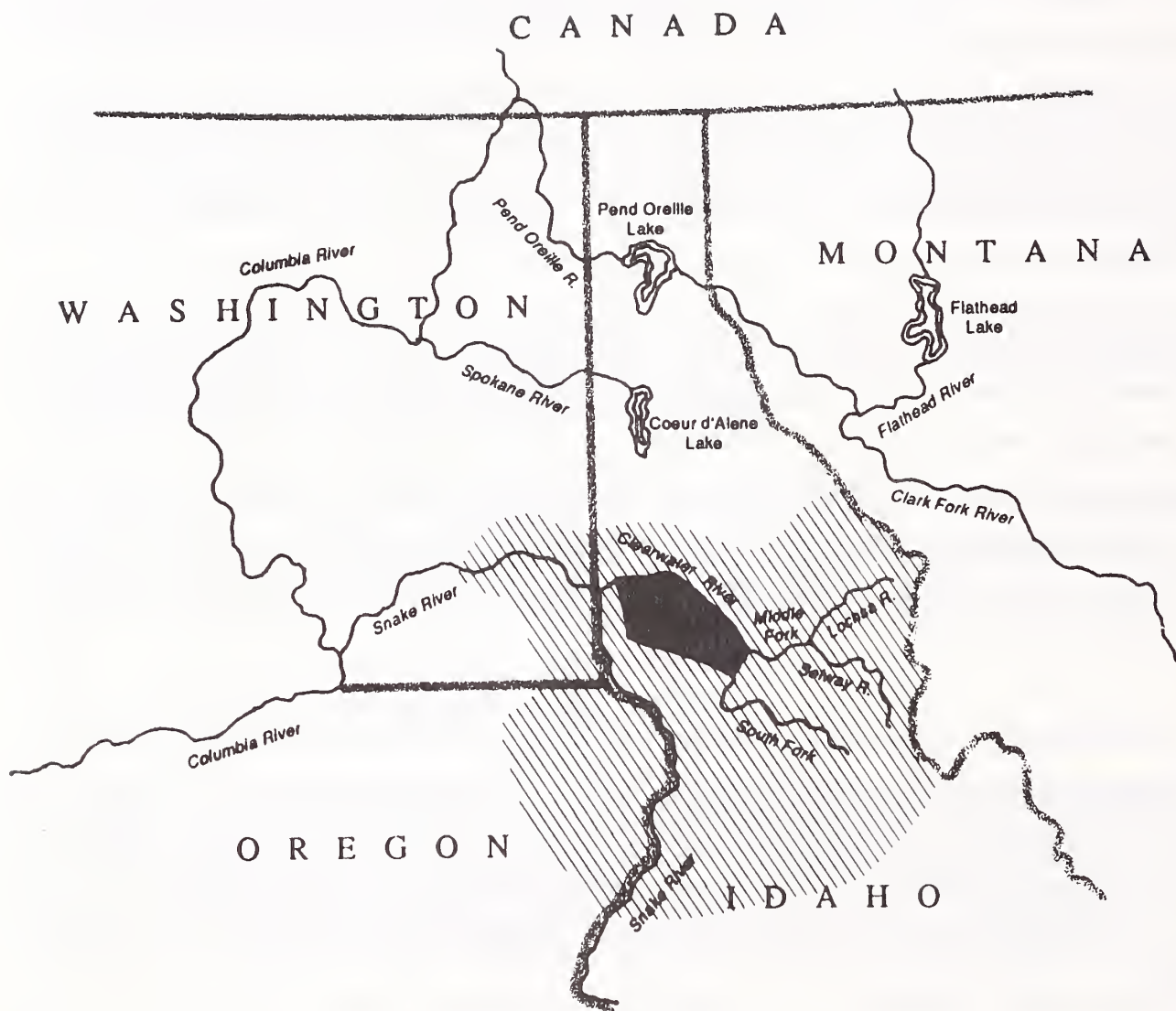


Figure 1.



Nez Perce Tribe ceded lands in 1863



Present day reservation

From Johnson (1983)

of land to individual tribal members. Lands remaining after the allotments, were open to homesteading. The allotted lands, described in an Agreement of 1893, form much of the tribal land within the reservation today. Presently, the Nez Perce tribe owns approximately 90,000 acres of the 780,000 acre reservation created with the Treaty of 1863. About 80% of the land is leased to non-Indians. Funding from these leased lands and an active timber program provide important revenues for the tribe (Ruby and Brown, 1986).

Presently, the tribe is governed by the Nez Perce Tribal Executive Committee (NPTEC) consisting of eight councilmen and a chairman. Although the Nez Perce did not organize under the Indian Reorganization Act, (1934) the tribe did enact a constitution and by-laws which were approved by the U.S. in 1948 (Ruby and Brown, 1986). Tribal council members are elected, in staggered terms, by enrolled tribal members during tribal elections in May. As of 1988, there were 10 subcommittees with responsibilities over issues such as fish and wildlife, law and order, budget and finance. In addition, the tribe has an internal staff responsible for implementing policy direction of NPTEC. As for most tribes, staff directors for the various departments report to their respective subcommittees for guidance and program review. Decisions requiring resolutions are first proposed by the tribal staff to the appropriate subcommittee. These are deliberated in subcommittee quorums and if the subcommittee approves, the issues then go the executive committee for approval and signature by the chairman.

With the convening of the Indian Claims Commission, the Nez Perce received some important settlements. In 1971, the tribe was awarded approximately \$3.5 million for cession of aboriginal lands in the 1855 treaty (Ruby and Brown, 1986). They received approximately \$4.2 million and \$1.2 million for under payment of lands ceded to the U.S. in the 1863 treaty and 1893 agreement, respectively (Ruby and Brown, 1986). In addition, the tribe was awarded \$3 million for claims of trespass and loss of gold taken from the Nez Perce lands during the 1860's and approximately \$2.8 million for loss of a fishery at Celilo falls when the Dalles Dam was constructed (Ruby and Brown, 1986).

COEUR D'ALENE

The Coeur d'Alenes, a Salish-speaking people, once roamed over a four-million-acre territory bordered by the Clark Fork River in the east, the Clearwater River tributaries in the south, Spokane Falls in the west and Lake Pend Orielle in the north (Ruby and Brown, 1986). The Coeur d'Alenes are generally divided by anthropologists into three distinct bands; one was located around the Spokane River and the northern portion of the Coeur d'Alene Lake; a second band occupied the southern section of Coeur d'Alene Lake, around the St. Joe River; and the third resided on the Coeur d'Alene River itself (Scholz et al, 1985). The Coeur d'Alenes had occasional battles with the Nez Perce to the south and the Spokanes in the west, but generally they had good relationships with their neighbors and shared common fishing hunting and gathering sites (Ruby and Brown, 1986).

In the spring, fishing began for the Coeur d'Alenes with some groups traveling to neighboring tribal areas to the south and west to intercept the early salmon runs while others stayed near home to gather locally available spring foods (Walker Jr., 1978). Anadromous fish were harvested from the North Fork Clearwater River and Spokane and Kettle Falls (Walker Jr., 1978, Scholz et al, 1985). In later years, after introduction of the horse, some Coeur d'Alenes traveled to the Columbia River to fish at Celilo Falls (Scholz et al, 1985). Resident fisheries in the waters of the Coeur d'Alene country also formed an important component of tribal subsistence. Bull, cutthroat and rainbow trout along with whitefish, suckers and aquatic invertebrates like mussels and snails were taken regularly (Walker Jr., 1978, Scholz et al, 1985). The Coeur d'Alenes employed hunting and fishing methods similar to those of the Nez Perce and also used many of the same resources.

The root harvest began in June at three major locations near Desmet, Clarkia and Moscow, Idaho (Walker Jr., 1978). Camas root was unusually abundant in Coeur d'Alene country and a large surplus was gathered for trade (Walker Jr., 1978). Bitterroot and wild onion were of secondary importance but widely used along with many berries, nuts and other delicacies such as wild rhubarb (Walker Jr., 1978). After the introduction of the horse, root-gathering sites were gathering areas for groups going to the plains in search of buffalo. Game animals taken throughout the year, but with intensified efforts in the fall, included deer, elk and bear, along with beaver, marmot, squirrel, badger and rabbit (Walker Jr., 1978).

Coeur d'Alenes' first contact with white men was with Lewis and Clark in Nez Perce country in 1806. Although the Coeur d'Alenes discouraged white traders from entering their lands, they did trade with the outposts at Fort Colville, Fort Spokane, Kullyspell House and Spokane House in the early 1800's (Ruby and Brown, 1986). Permanent contact with the whites began in 1842 with the establishment of a catholic mission near St. Maries, Idaho by Father Pierre DeSmet (Ruby and Brown, 1986). The mission was later moved to Cataldo and, after gold was discovered in the vicinity, to Desmet, Idaho (Coeur d'Alene Tribe). The Coeur d'Alenes, as did many northern tribes, missed the Steven's treaty expedition due to conflicts brewing to the west, although they evidently felt the tremors of those wars.

In 1858, some members of the Coeur d'Alene, Kalispel, Colville, and Spokane tribes were engaged with the U.S. in a fracas known as the Steptoe Battle (Fahey, 1986). Launched as a show of force to the northern tribes, the battle was a result of the Yakima war (Fahey, 1986). Although the U.S. troops met with staunch resistance and were driven back, a second effort effectively subdued the tribes (Fahey, 1986). In 1859, the U.S. sent an emissary to sign peace compacts with the Spokane and Coeur d'Alenes. As part of the treaty, the Coeur d'Alenes submitted to the building of The Mullan Road through their lands (Ruby and Brown, 1986).

In the ensuing years, some Coeur d'Alenes adopted the agricultural livelihood encouraged by the priests while others offered resistance (Ruby and Brown, 1986). Due to the success of the farming efforts, many people adopted this way of life and several Indian families prospered on their good farming lands (Coeur d'Alene Tribe). With increasing pressure from outsiders, this was soon to change.

A reservation was established for the combined Kalispel, Spokane, Sanpoil, Colville and Coeur d'Alene tribes in 1867, but the Coeur d'Alenes never removed to that location. So, in 1873, an executive order established a 598,500-acre reservation specifically for the Coeur d'Alenes (Figure 2). In exchange for land ceded to the government, payment of goods were promised (Ruby and Brown, 1981). Although this treaty was never ratified, another treaty was made and ratified later that year, but it did not mention the promised goods (Ruby and Brown, 1981). In spite of the treaty, miners and settlers appearing on the scene from 1882-1885 continually encroached on tribal lands (Ruby and Brown, 1981). Coeur d'Alene chief Seltice managed to bring about a firmer commitment from the government to secure tribal lands by the enactment of a new agreement in 1887. The result was a greatly diminished land base (Figure 2). Then, in 1889, the tribe relinquished another 40% of the lands reserved in their 1887 agreement (Ruby and Brown, 1981). The same year, many non-reservation, Catholic Spokanes living in the vicinity of Spokane Falls agreed to remove to the Coeur d'Alene reservation and remain there today.

Allotment efforts during the early 1900's met with considerable dispute from Coeur d'Alenes (Ruby and Brown, 1986). Nevertheless, between 1905 and 1909, the Coeur d'Alene reservation was allotted in 160 acre parcels to individual Coeur d'Alene and Spokane tribal members. The remainder was declared excess and homesteaded (Coeur d'Alene Tribe). The construction of Post Falls dam brought on further decrease in tribal lands; the government condemned lands expected to be flooded and then sold the lands when the flooding didn't materialize (Coeur d'Alene Tribe). The tribe also lost what is now called Heyburn State Park, although there are no records of any payments being made for the lakeside and surrounding areas (Coeur d'Alene Tribe). By this time many of the Indian farmers were discouraged and sold their farm equipment and animals and in most instances, leased their lands to non-tribal people (Coeur d'Alene Tribe).

Although the Coeur d'Alenes rejected the Indian Reorganization Act in 1934, the tribe is presently governed by a tribal council empowered by the revised constitution and by-laws adopted by the tribe in 1960 (Coeur d'Alene Tribe). The council oversees day to day activities of the tribal administration and directs its legislative actions by the executive director. The tribal administration's functions include personnel, property and supply, finance, planning, natural resources, education and career development, and health and social services (Coeur d'Alene Tribe).

During the Indian Claims Commission period, the tribe was successful on two principal claims. The first was for approximately \$4.5 million due to under payment of the 2.4 million acres of land ceded to the U.S. in 1887. In conjunction with 24 other tribes throughout the west, the tribe also filed a claim for mismanagement of Indian Commission judgement funds and other accounts and was awarded \$174,000 in 1981.

In 1971, the tribe created a tribal farm with 1,500 acres under cultivation; the farm has since grown to 5,700 acres (Coeur d'Alene Tribe). The farm and tribal timber operations supply much needed employment and return a considerable profit (Coeur d'Alene Tribe). The tribe also created a Tribal Development Corporation



Figure 2.



Coeur d'Alene Tribe ceded lands in 1887



Coeur d'Alene Tribe ceded lands in 1889



Present day reservation

From Agreement Between the State of Idaho and the Coeur d'Alene Tribe of Idaho (1988)

in 1983 to promote and solicit business interests which would be profitable and in the interest of the tribe (Coeur d'Alene Tribe).

KOOTENAI

The Kootenai, a Kitunahan-speaking people, occupied a large area of the upper Columbia Basin in northern Idaho, the northwestern corner of Montana and southeastern corner of British Columbia (Scholz et al, 1985). Their aboriginal land, shown in Figure 3, was rich in fish and game and flourished with food plants (Walker Jr., 1978). It had a fairly moderate climate, abundant rainfall, thickly forested slopes with open, well watered valleys and numerous lakes (Walker Jr., 1978). Although the Kootenai formed a number of bands, they usually separated into functional hunting or fishing units during the year and consolidated in groups of 100 to 200 individuals for their winter encampments (Walker Jr., 1978)

The Kootenai are divided into two principal groups based on their aboriginal location and lifestyles. The upper Kootenai engaged in a plains-horse culture way of life while the lower Kootenai were fishermen. Some of the upper Kootenai now live on the Flathead Reservation as part of the Confederated Salish and Kootenai Tribes. Some of the lower Kootenai reside in the Bonners Ferry, Idaho, area and are recognized as the Kootenai Tribe of Idaho.

Upper Kootenai

The bands of the upper Kootenai were located in four general areas. One band lived around Jennings, Montana but eventually moved south to Flathead Lake and presently reside on the Flathead reservation (Ruby and Brown, 1986). Another band lived in the area known as Tobacco Plains. They presently live on reservations in Canada (Ruby and Brown, 1986). A third band, from the Kootenai River between Warland and Tweed, Montana, are now extinct (Ruby and Brown, 1986). The fourth resided in the area of Libby, Montana and some eventually moved to the Canadian reservations while others joined the Jennings band on the Flathead reservation (Ruby and Brown, 1986).

The upper Kootenai followed a typical Plains lifestyle, supported by the buffalo of Alberta and northern Montana (Ruby and Brown, 1986). The annual cycle of subsistence activities for the upper Kootenai began in the later spring. Around June, they crossed over the continental divide onto the Great Plains for a bison hunt which lasted into July (Walker Jr., 1978). The Kootenai hunted buffalo as a group, but individual animals belonged to the hunter who made the kill (Walker Jr., 1978). Two bison per day were about the most any hunter would want to kill due to the time needed to butcher the animals. Upon returning from the buffalo hunt, the Kootenai scattered to gather roots and later, berries (Walker Jr., 1978). Other large game and birds of all kinds were hunted during all seasons of the year (Walker Jr., 1978). When autumn began, the upper

Kootenai returned to the Plains to hunt buffalo once again. Hunting and food gathering were curtailed during the winter months but the Kootenai took some fish and occasionally large game during the colder months (Walker Jr., 1978).

Articles introduced by the white men rapidly changed the Kootenai way of life. With the advent of the horse, these people became much more migratory, following the buffalo on a seasonal basis and, like other Plains cultures, used the horse as a means of transportation and a source of wealth (Ruby and Brown, 1986). In time, friction between the Kootenai and Blackfeet increased and the Kootenai were eventually displaced from hunting on the Plains to the country west of the continental divide. Here, they utilized the game, fish and berries of the northern valleys between the Bitterroots and the Rocky Mountains.

The Kootenay House north of Lake Windermere, British Columbia, was established in 1807 and led to increased trade. Also during this time, contact with Christian Iroquois Indians, brought west with the traders, influenced the lifestyle of some of the Kootenai. With the arrival of Father De Smet, and the establishment of the St. Ignatius mission in the lower Flathead valley in 1854, the Jennings band adopted more of a sedentary livelihood raising crops (Ruby and Brown, 1986).

In 1855, Governor Stevens met with the Kootenai, Flathead and Pend Orielle at Hell Gate, near Missoula, Montana, to negotiate for their lands (Ruby and Brown, 1986). Only a few Kootenai band leaders accepted the Hellgate treaty. Those who dissented eventually moved to Canada. At the time, relations between these Kootenai and the Salish speaking Flatheads and Pend Orielles were strained, so moving them to a Salish reservation was not acceptable (Ruby and Brown, 1981). Nevertheless, a mark affixed to the Hellgate treaty has been ascribed to Michelle, a leader of the Kootenai tribe. As a result, the Flathead reservation was opened for their occupation. In 1895 and 1910, a number of upper Kootenai from Libby, Montana and some of the lower Kootenai from Bonners Ferry, Idaho also moved to the Flathead reservation. Further discussion about the upper Kootenai is in the section on the Confederated Salish and Kootenai Tribes.

Lower Kootenai

There were three principal bands of lower Kootenai (Ruby and Brown, 1986). One band resides in the Bonners Ferry, Idaho, area and are recognized as the Kootenai Tribe of Idaho. A second band lived in the area of Creston, British Columbia. The third band resided around Kootenay Lake, British Columbia. For the most part, the Creston and Kootenay Lake bands now live on reservations in Canada.

The lower Kootenai were dependent more on the water and fisheries resource for their livelihood (Walker Jr., 1978). In the spring, the Kootenai fished on the Kootenai River, Kootenay Lake and the upper Columbia rivers and lakes (Scholz et al, 1985). Anadromous fish were taken in the upper Columbia River, and at common inter-tribal fishing sites such as Kettle Falls. The Bonners Ferry Kootenai also relied heavily on resident fish,

such as sturgeon, kokanee, trout, whitefish, squawfish and suckers (Walker Jr., 1978 and Scholz et al, 1980). They captured fish in communal weirs and traps under the direction of a fishing leader or fished individually from canoes (Walker Jr., 1978). During the summer, first bitterroot and then camas and wild onion were gathered, concluding with berry picking in the fall (Walker Jr., 1978). When autumn arrived, the lower Kootenai began more concerted efforts to secure game, especially deer (Walker Jr., 1978). Communal deer hunts were made by driving the animals under direction of a deer hunting chief. In addition to blacktail, whitetail and mule deer, the lower Kootenai hunted a number of large game animals throughout the year including bighorn sheep, mountain goat, grizzly, brown and black bear, elk, moose and woodland caribou and a variety of small game and birds (Walker Jr., 1978).

Although the Kootenai had contact with white traders at the start of the 1800's, primarily at the Kullyspell House on Lake Pend Orielle, they were fairly well isolated from white contact for a number of years. The lower Kootenai never signed the Hellgate treaty of 1855 and to this day, the Kootenai Tribe of Idaho is one of the few federally recognized Indian tribes in the United States that has never had a land base established through treaty (Kootenai Tribe). Nevertheless, railroad, timber and homesteading interests, predominant in northern Idaho and Washington during the 1880's, eventually pressured the government to relieve the Kootenais of their claims to land. In 1892, about 7,000 acres in individual allotments was made to the Kootenai people. (Kootenai Tribe). Promises of farming implements and seeds from the government never materialized. The Kootenai were forced to sell much of their allotted lands. By 1986, the Kootenai's land base dwindled to about 1,235 acres in individual trust and 117 acres in collective trust (Kootenai Tribe).

In 1947, the tribe organized by adopting a constitution and by-laws and established a council and chairperson to interact with the federal government. The tribe still maintains its historical form of government: consensus of the people and a hereditary chief (Kootenai Tribe). In 1960, the Kootenai Tribe of Idaho was awarded \$425,000 from the Indian Claims Commission because their aboriginal title to 1,160,000 acres in northeastern Idaho and northwestern Montana was extinguished by the United State in the 1895 allotment without treaty or compensation (Ruby and Brown, 1986).

Realizing that a land base was essential for tribal survival, the Kootenai of Idaho attempted to have a reservation established several times during the middle 1900's. It wasn't until 1974, when the tribe resorted to declaring war on the United States that they won some recognition of their plight. The result was that President Gerald Ford recognized 12.5 acres of land underlying their historical village as "trust lands". Thereafter, the tribe received access to federal services and benefits provided to other reservations. The tribe has since contracted out many Bureau of Indian Affairs services through PL 93-638 Indian Determination Act. Today, the Kootenai Tribe has developed and operates the Kootenai River Inn which provided jobs and revenues to the community.

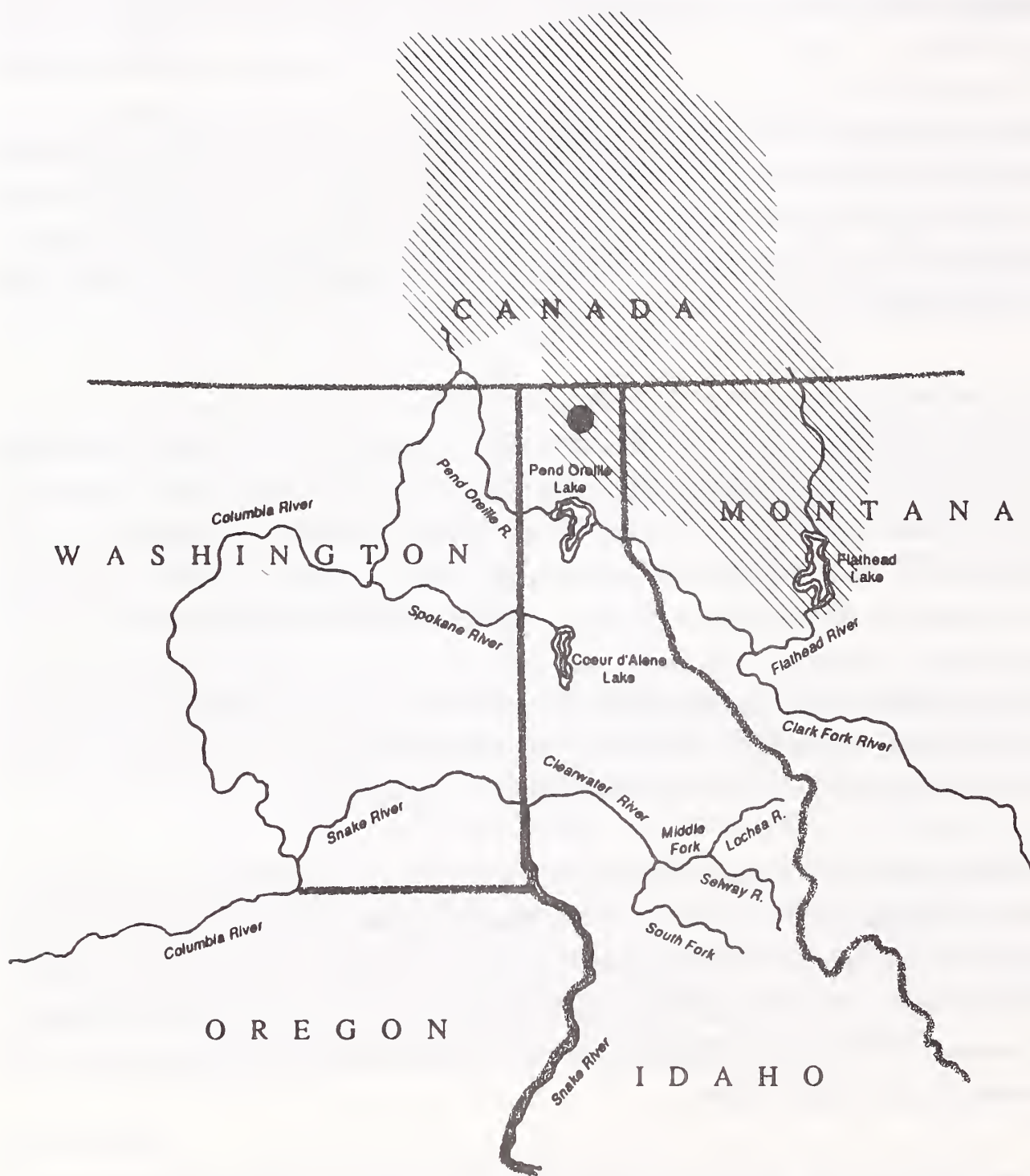


Figure 3.



Kootenai Tribe aboriginal lands



Present day reservation

From Scholz et al (1985).

CONFEDERATED SALISH AND KOOTENAI TRIBES

The Flathead Reservation, in the Jocko Valley of Montana is the home for three Indian tribes, the Flathead, Pend Orielle and the Kootenai, now recognized as the Confederated Salish and Kootenai Tribes (CSKT). The aboriginal lands of these people included essentially all of western Montana (Figure 4). They encompassed the high mountain ranges of the Bitterroots and the Continental Divide with the valleys and lakes in between, and extended out into the great Plains from the eastern face of the divide. The Salish speaking people, the Flathead and Pend Orielle, are usually grouped with the Plateau culture because of linguistic characteristics and their aboriginal territory location. The Kootenai people in this country were a Plains culture. Both Salish tribes and the Kootenai, however, were probably more of a mix between Plains and Plateau people because their territory straddled the Rocky Mountains.

The Pend Orielles were sometimes considered to be the upper branch of the Kalispel tribe, but in present day are considered separate tribes. The ancestors of these people ranged throughout the Pend Orielle and Clark Fork River system. The Kalispels resided in the area from Pend Orielle Lake and Priest Lake down to the mouth of the Pend Orielle River and have their own reservation in northeastern Washington. The Pend Orielle lived east of Pend Orielle Lake in the Clark Fork River country of Montana, and currently reside on the Flathead reservation. Since only these Pend Orielles were signatory to the Hellgate treaty and therefore have acknowledged off-reservation hunting and fishing rights, they will be the focus of this discussion.

The Pend Orielle were larger than the Flathead tribe and occupied an area from Paradise to Butte, Montana (Bryan Jr., 1985). Most Pend Orielle settled in the Bitterroot, Missoula and Flathead valleys (Bryan Jr., 1985). These people did not utilize the plains as much as their Flathead neighbors. Friction and competition with western plains tribes made their buffalo hunting forays infrequent, and encouraged them to concentrate their subsistence efforts in the valleys west of the divide (Bryan Jr., 1985). By 1830, the Pend Orielle were rather centrally located in the vicinity of St. Ignatius which allowed them access to all three valleys and, to buffalo hunting routes to the east (Bryan Jr., 1985).

The Flathead bands actually moved onto the plains east of the divide where they lived for hundreds of years (Bryan Jr., 1985). Tribal buffalo hunting efforts centered around six principal areas east of the divide; the Helena Valley, Three Forks, Big Hole, Jefferson Valley and probably areas along the Upper Yellowstone and Sun Rivers (Bryan Jr., 1985). In early spring, the Flatheads began hunting buffalo (Fahey, 1974). By June, the hunters returned to join the women gathering roots in the Bitterroot Valley along the Clark Fork, in Grass Valley, in the Big Hole and near Phillipsburg (Fahey, 1974). Other plants providing staples for the Flathead were camas, sunflower roots, the edible cambium layer of pine, larch, and fir, black moss and wild carrots and parsnips (Fahey, 1974). The Flathead also fished the local streams and hunted waterfowl and small and large game. But the hunt for buffalo was their primary endeavor (Fahey, 1974).



Figure 4. Confederated Salish and Kootenai Tribes ceded lands in Montana.



Present day reservation

*From map titled "Indian Land Areas Judicially Established, 1978".
Indian Claims Commission, 1978*

Although the Pend Orielle occupied more or less the same areas in western Montana, the Flathead were effected by circumstances that resulted in their eventual removal from the plains. After the advent of the horse and with introduction of guns, conflicts between the Flathead and the Blackfeet were frequent and destructive (Bryan Jr., 1985). During the 1700's, the Flathead people were also devastated by smallpox epidemics (Bryan Jr., 1985). Due to their lesser numbers, and pressure from the Blackfeet tribes, they moved back over the divide (Bryan Jr., 1985). There, they relied more on the game, fish and plant resources of the Bitterroot Valley.

In 1805, the Flatheads encountered Lewis and Clark at the head of the Bitterroot River, thus beginning a dramatic change in the culture of the Salish people (Ruby and Brown, 1986). The fur trading Saleesh House was established on the Clark Fork where white men and their ideas were common. The Iroquois Christians brought by the traders also influenced the Flathead and Pend Orielle and the tribes adopted the religion for its perceived "medicine power" (Ruby and Brown, 1986). The Salish-speaking Flathead and Pend Orielle people later encouraged the establishment of the St. Ignatius Mission by Father De Smet in 1854.

A year later, in 1855, the Flathead Reservation was created by treaty with Governor Stephens. The treaty, called the Hellgate Treaty, was signed by leaders of the Pend Orielle, Flathead and, presumably, the Kootenai tribes. It set aside the current Flathead Reservation in the Jocko Valley for occupancy by the Pend Orielle and Kootenai, while a separate reservation was maintained for the Flathead tribe in the Bitterroot Valley (Bryan Jr., 1985). Within 20 years, Flatheads living in the Bitterroot were pressured into renegotiating an agreement to move onto the Jocko Valley reservation (Bryan Jr., 1985). Two Flathead bands agreed to the move, while a third under Chief Charlo, refused. Twenty years after that, in 1891, Charlo's band, starving and destitute, moved onto the Jocko Valley Reservation (Bryan Jr., 1985).

From 1887, with the passage of the Allotment Act, until 1904, the combined tribes on the Flathead reservation fought the allotment of tribal lands (Bryan Jr., 1985). With the death of their chief proponents, Indian Agent Peter Ronan and Chief Charlo, the tribes were eventually pressured into allotting in 1904 and then opening the reservation to homesteading in 1910 (Bryan Jr., 1985). Shortly thereafter, lands were also set aside for the establishment of the Moise National Buffalo Range, Nine Pipes Wildlife Refuge and the Pablo Wildlife Refuge (Bryan Jr., 1985). The allotment and allocation efforts resulted in reducing the reservation from 1,243,000 acres to about 618,000 acres of Indian owned land. Today, most of the bottom agricultural lands are owned by non-tribal members, while the majority of tribal land borders the reservation in the timber country.

In 1928, the Montana Power Company leased lands from the tribes for construction of Kerr Dam on the Flathead River (Bryan Jr., 1985). The lease turned out to be an incredible boon for the tribes and they receive annual lease payments which amount to considerable revenues for the tribal coffers.

The Confederated Salish and Kootenai tribes organized under the 1934 Indian Reorganization Act. Today the tribes are governed by 10 tribal council members elected for 4-year terms. The council members are elected from eight districts, electing two council members each. The council members elect the chairman, vice chairman, secretary and treasurer to two-year terms. The present structure of the tribe also consists of an administrative affairs branch which oversees a number of tribal programs. The tribes have always been progressive and receive considerable funding from their timber program and lease payments for occupancy of Kerr Dam on tribal lands.

During the termination era of the 1950's, the Flathead Reservation came very close to being terminated. The wealth of land and resources and the overwhelming majority of non-tribal members residing on the reservation provided the driving force for the termination efforts (Bryan Jr. 1985). Fortunately, the tribes were reluctant to accept terms of the termination and fought hard to maintain their tribal status; they eventually won.

The combined tribes won a number of claims from the Indian Claims Commission in the 1970's. They received approximately \$4.4 million for ceding 12 million acres of land to the U.S. in the Hellgate Treaty, \$6 million for general mismanagement of tribal monies and property, and \$22 million (\$16 million of which was interest) for nonpayment for 485,000 acres of lands allotted to the government and homesteaders during the allotment era.

BLACKFEET TRIBE

The Blackfeet tribe is the largest tribe in the State of Montana. The tribe is originally from the area north of the Great Lakes and are thought to have moved westward towards the great plains of Montana and Alberta in response to either pressure from more eastern tribes, attraction to the big game of the plains or possibly both (Ewars, 1958). There were originally three tribes of Algonquian-speaking people associated with the Blackfeet name: the southern tribe of Piegans; the centrally located Bloods; and the more northern, Northern Blackfeet. Presently, the Bloods and Northern Blackfeet occupy Canadian reserves while the Piegans reside on the Blackfeet reservation in Montana.

By about 1700, the Blackfeet occupied the plains area bordered by the northern Saskatchewan forests, the Missouri River country and the Rocky Mountains (Ewars, 1958). They lived in bands of about 20 to 30 families, following movements of the buffalo. As soon as the snow melted, the bands began their migrations. Most of their active year was spent in the open grazing area of the plains but with the onset of winter, the people moved back to the protection of the river breaks and islands of lowland forests (Ewars, 1958). The Blackfeet also hunted many small mammals including wolves, foxes, muskrats, beavers, badgers, minks, martens, rabbits, skunks and porcupines, and the larger bear, deer, elk and moose (Ewars, 1958). Although their diet was heavy in the meats, they also ate roots in early summer and berries in the fall (Ewars, 1958).

The early Blackfeet people had to be very skillful at hunting and using buffalo since the climate was so severe and an entire bands survival was dependent upon their success (Ewars, 1958). Most of their efforts were communal, and the kill was divided equally among all families (Ewars, 1958). They hunted the animals by driving them over cliffs, or into corrals, and by stalking, separating and killing individual animals (Ewars, 1958). The early Blackfeet wasted very little of the animal; using the dressed skins and sinew for lodge covers, the winter hides for warm clothing and bedding, the green rawhide for making tools, horns for utensils, and paunches for buckets and kettles (Ewars, 1958).

The introduction of the horse, and guns, caused a change in lifestyle that allowed the Blackfeet to become much more effective and mobile hunters and warriors. Their greater numbers allowed them to become a dominant force on the plains. By the 1800's, they succeeded in pushing the Kootenai and Flathead west of the Continental Divide and the Shoshoni to more southerly plains (Ewars, 1958). They maintained their control over the western plains through the 1800's.

Although the Blackfeet seemed to get along with the British companies, they did not have the same cordial relationships with the American companies (Ewars, 1958). This has been attributed to differences in trading practices and the American's emphasis on using their own trappers (Ewars, 1958). It wasn't until 1832 that an American outpost was finally permitted for trade near the confluence of the Marias and Missouri Rivers. This was established by a former British fur company trader (Ewars, 1958). During these early to mid-1800's, many Americans were killed while trespassing in the Blackfeet country and great care was taken by westward moving settlers to avoid crossing the western plains (Ewars, 1958).

The treaty making-period, beginning in the 1850's, saw continual reduction of Blackfeet power and lands. In 1851, the Blackfeet were mentioned in the Fort Laramie treaty as one of the tribes that would desist from warring with each other and incoming whites and a great Indian territory was established in a considerable area of the great Plains (Bryan Jr., 1985). In 1855, Governor Stevens signed a treaty with the Blackfeet and their allies, the Gros Ventre called "Lame Bull's treaty" which set up a reservation specifically for their use (Bryan Jr., 1985). In 1865 and 1868 treaties were drawn up which excluded Blackfeet from lands south of the Missouri River (Bryan Jr., 1985). Although they were not ratified by congress, the subsequent movement of settlers into these areas effectively reduced Blackfeet territory (Bryan Jr., 1985).

In 1870, the Baker Massacre essentially quelled Blackfeet conflict with the United States. General Phillip Sheridan ordered Major Eugene Baker to pursue a band of Blackfeet who had killed a settler. Instead they attacked a friendly Piegan band led by Heavy Runner who were encamped for the winter. The massacre, resulting in the deaths of 173 people,(including 90 women and some 50 children) was more than enough to let the Blackfeet know the U.S. could be extreme in extracting retribution (Pitt, 1985).

With the loss of both land and buffalo in the 1870's and 1880's, the Blackfeet stumbled and fell. In 1873 and 1874, President Grant signed executive orders which took away Blackfeet land between the Marias River to the north and the Sun River to the south (Bryan Jr., 1985). By the 1880's, the buffalo herd of the great plains had dwindled to near extinction and during the winter of 1882 some 600 Blackfeet people died of starvation (Bryan Jr., 1985). By 1887, most plains peoples were starving and destitute and living on government handouts. In a trade for needed supplies, the Sweetgrass Hills Agreement was signed which created the Fort Peck, Fort Belknap and Blackfeet Reservations in the country occupied by their respective tribes today (Bryan Jr., 1985). Again, faced with shrinking funds and federal assistance, the Blackfeet resorted to selling more tribal lands in 1896 (Bryan Jr., 1985). This land includes the part of Glacier National Park east of the continental divide and the portion of the Lewis and Clark National Forest known as the Badger-Two Medicine area.

Even though the remaining Blackfeet land was not amenable to farming, the reservation was allotted to individual tribal members from 1907-1911 (Bryan Jr., 1985). The surplus land was not even considered by white farmers to be worthwhile but seemed to offer some potential for livestock grazing (Bryan Jr., 1985). Possibly for these reasons, President Wilson, in 1919 repealed individual allotments on the Blackfeet reservation and returned the surplus land to the tribe (Bryan Jr., 1985). A livestock grazing program was started but eventually thwarted by a drought. Today, the primary revenue source for the tribe is from oil and gas resources and manufacturing (Bryan Jr., 1985).

The Blackfeet organized in 1935 under the Indian Reorganization Act and formed their tribal governing system (Bryan Jr., 1985). Today, the tribal council acts as a business corporation and the political body (Bryan Jr., 1985). Nine council members from four districts are elected to two year terms (Bryan Jr., 1985). The terms are not staggered which makes it hard for the tribe to establish any continuity and progress from one administration to the next. The tribal chairman is elected by a general election and serves a four year term (Bryan Jr., 1985).

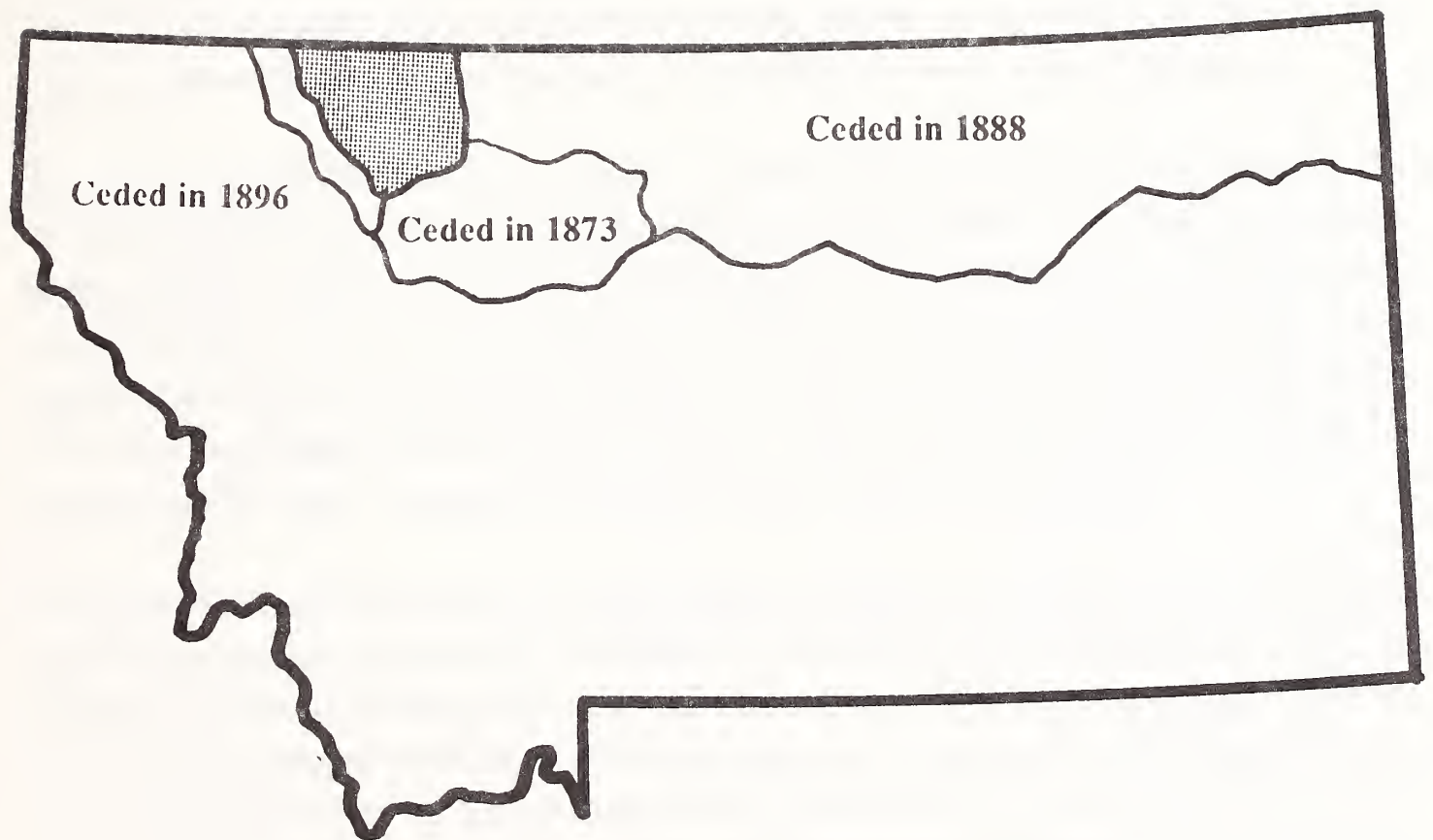


Figure 5. Blackfoot Tribe ceded lands and present day reservation.

 Present day reservation.
From Bryan Jr. (1985)

SECTION THREE - HUNTING AND FISHING TREATY RIGHTS

It is important to establish that hunting and fishing rights guaranteed in treaties are among the most powerful promises the United States government can make. They've undergone continual scrutiny throughout the years and have been the source of many legal, if not actual physical, conflicts. They have been taken apart, word for word, to establish who has jurisdiction over hunting and fishing and who may hunt and fish what, when and where. The bottom line is that treaties are essentially the supreme law of the land.

Indian treaties are agreements drawn up through negotiation between tribes and the United States similar to those between the United States and any foreign government (Cohen, 1982). They were made to guarantee special rights and compensation, including rights to hunt and fish, in exchange for cession of Indian land (Cohen, 1982). Under the Supremacy Clause of the Constitution, treaties are superior to any conflicting state laws or constitutional provisions (Cohen, 1982). After federal statute eliminated treaty making in 1871, the United States continued to make promises to Indian tribes through agreements in statutes and executive orders. These, in essence, carry the same weight as treaties (Cohen, 1982).

Among the items reserved by tribes in exchange for land, are the right to hunt and fish in a manner that would allow them to maintain their way of life. For example, both the 1855 treaty with the Nez Perce and the 1855 Hellgate treaty with the Flatheads, Pend Orielle and Kootenai, contains the following language in Article 3:

"The exclusive right of taking fish in all the streams where running through or bordering said reservation is further secured to said Indians: as also the right of taking fish at all usual and accustomed places in common with citizens of the Territory; and of erecting temporary buildings for curing, together with the privilege of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land."

On-Reservation Hunting and Fishing Rights

It is generally recognized that tribal members have the exclusive right to hunt and fish on the lands reserved by them unless the rights were clearly relinquished by later treaty or modified by statute (Cohen, 1982). This is based on the premise that reservations created specifically for tribal use must also include the ability for tribal members to derive their subsistence from its resources (Cohen, 1982). Some treaties, including the Nez Perce and Hellgate treaties of 1855 actually referred to an "exclusive" right as shown above, but other treaties or executive orders did not. Nevertheless, it has been established in court that regardless of insertion of the words, the right of tribal members to hunt and fish on their reservations exists along with creation of the reservation (Cohen, 1982).

Management of On-Reservation Hunting and Fishing

Tribes have the authority to manage fish and wildlife resources on the reservation. The tribe can require licensing of members and non-members, set season limits, gear restriction and other regulations including completely prohibiting hunting and fishing. It has been found that since Indian tribes have the right of self-government over their territory, then the protection of the resources within that territory includes the ability to regulate hunting and fishing. Additionally, federal statute, U.S.C. 1165, called "the trespass law", makes it clear that it is unlawful for any person to go upon Indian land to hunt or fish without tribal permission.

In most instances, it has also been established that tribes have the ability to regulate and manage fish and game on the reservations free of state control. Tribes, not the states, have the authority to regulate hunting and fishing by their members on both tribal and non-tribal lands (Cohen, 1982). Tribes also have the authority to regulate hunting and fishing by non-members on tribal lands. The state may not issue additional permits to fish and hunt on reservation lands if it conflicts with tribal management (AIRI, 1988). However, tribes may not regulate fishing or hunting by non-members on non-tribal lands unless the non-member's conduct threatens or has some direct effect on the political integrity, the economic security or the health or welfare of the tribe (Cohen, 1982).

Off-Reservation Hunting and Fishing Rights

Off-reservation hunting and fishing rights are not as common as on-reservation rights. As was indicated earlier in this paper, most tribes have negotiated a series of treaties throughout their histories to result in the current locations of their reservations. When treaties were executed, they invariably extinguished all rights (including hunting and fishing rights) that existed with the land being ceded to the government. Therefore, if the pattern held true, most tribes would eventually be left with hunting and fishing rights that could be used only on land within their current reservations. It was only in a few instances that tribes retained rights on land outside their present reservations. This was no mistake or oversight. The tribes that benefit from off-reservation rights had to insure that their hunting and fishing rights were excluded from those rights and claims on the land being ceded.

Many Northwest tribes that historically relied on fishing have additional language in their treaties that secures "...the right of taking fish at all usual and accustomed grounds and stations... in common with citizens of the territory". This language was included in treaties procured by Governor Stevens from 1854-1855. These few words have been the subject of considerable controversy, especially in regards to the Indian fishery on the Columbia River, and warrant exploring:

In 1905, the *United States v. Winans* case established what a "right" implied. The case involved a non-tribal member who attempted to prevent tribal members from fishing at a traditional site by buying and then claiming absolute title to the land (AIRI, 1988). The Supreme Court ruled against this claim and established two important precedents. The first is that hunting and fishing rights were not rights that were granted by the government to the tribal signatories, but rather they were rights reserved by the tribes in exchange for lands (AIRI, 1988). The case also established that tribal members cannot be barred from accessing their usual and accustomed fishing sites since their reserved right is essentially an easement over private as well as public lands (Cohen, 1982).

In 1975, a case tried in a Washington federal district court, called the Boldt decision (after the judge who presided), established what was meant by the right of tribes to harvest fish "in common" with the citizens of the territory. The court relied heavily on understanding the situation under which the treaties were written and made its interpretation in this manner. First of all, it was determined that there were two distinct entities involved during the treaty making, Indian tribes and the citizens of the territory, not just individual tribal members and individual citizens of the state (AIRI, 1988). The separation of two political entities effectively denied the states assertion that all citizens have the same rights with respect to harvesting fish. In their treaties ceding land to the United States, these specific tribes had reserved the right to harvest fish to insure that their livelihood and way of life would remain intact; no such right had been reserved by citizens of the state (AIRI, 1988). The understanding that there are only two entities involved, the tribes and the citizens of the territory, was then applied to the actual allocation of the harvestable fish. The court's interpretation was that harvest "in common" meant equal distribution between the two entities, or that each is allowed a 50/50 share (AIRI, 1988). Boldt's decision, was reaffirmed by the Supreme Court in 1979.

As was shown from Article 3 of the Nez Perce and Flathead treaties, the right to hunt on open and unclaimed lands has also been reserved by certain tribes. Although there is presently some controversy about just what is considered to be open and unclaimed, it has been established that federal lands such as those administered by the Forest Service and Bureau of Land Management certainly fall within this category.

Off-reservation hunting and fishing rights are considered to be exercisable only on the lands that were part of the tribe's usual and accustomed hunting and fishing area. So, for example, a Nez Perce tribal member may not hunt in California, because anthropologic evidence hasn't established that the tribe hunted there in the past. Rather than ferreting out anthropologic details, it is certainly safe to assume that a tribal member with these rights may hunt anywhere on the open and unclaimed lands that were ceded by his specific tribe to the government. The maps included in this document give an indication of where these lands are in relation to National Forests.

Management of Off-Reservation Hunting and Fishing

Several court cases have determined that tribes have the authority to regulate hunting and fishing by their tribal members within their ceded lands and usual and accustomed sites. This has as its premise, historic evidence indicating that tribes, in some manner, have always regulated their own tribal member hunting and fishing (Cohen, 1982). That ability shouldn't be lessened in the present day (Cohen, 1982).

State regulations can be enforced on tribal members only in cases of conservation of the resource. But in general, it was found in *U.S. v. Washington* (the Boldt decision), that if tribes meet certain qualifications, they may regulate the treaty fishing and hunting activities of their members at off-reservation sites free of state interference (Cohen, 1982). The qualifications include the establishment of a competent and responsible leadership, and the ability to apply and enforce off-reservation regulations. In exercising treaty hunting and fishing rights, tribal members are not required to purchase a state license, but they must possess a tribal identification card (Cohen, 1982).

The Boldt Decision and subsequent case law have changed the face of fisheries and habitat management in the Northwest. The four Columbia River tribes specifically effected by the Boldt decision are the Umatilla, Yakima, Warm Springs and Nez Perce. The principal commercial, subsistence and ceremonial fisheries management area shared by the tribes is the Columbia River between Bonneville and McNary dams, referred to as "Zone 6". Forest Service management can directly effect the survival of fish runs and consequently Indian treaty harvest in Zone 6.

Much of the anadromous fish habitat in the Columbia Basin is found on National Forests. In the Northern Region, the Clearwater, Nez Perce and Bitterroot National Forests support anadromous fish runs. It is for this reason that lower river tribes, such as the Yakimas and Warm Springs have a vested interest in the management of the Bitterroot, Clearwater and Nez Perce Forests.

Northern Region Tribes Off-Reservation Hunting and Fishing Rights

Nez Perce and Confederated Salish and Kootenai Tribes

The Nez Perce and the Confederated Salish and Kootenai tribes, as Steven's treaty tribes, reserved the off-reservation hunting and fishing rights just discussed. It is important to note, that the Confederated Salish and Kootenai tribes have not established that the mainstem Columbia River was within their usual and accustomed fishing area, and so, they are not able to participate in the Zone 6 fishery. However, the usual and accustomed hunting and fishing lands of the Salish and Kootenai essentially covered all of western Montana, so they most certainly have the ability to exercise their hunting and fishing rights in this area.

Coeur d'Alene

The Coeur d'Alene tribe has reached an agreement with the State of Idaho on the extent of their off-reservation hunting and fishing rights. The Coeur d'Alenes and the State of Idaho had a disagreement as to whether and to what extent the tribe retained hunting, fishing and trapping rights in the area ceded to the government in their 1887 and 1889 Agreements (Figure 2). In order to avoid litigation on the issue, the tribe and the state entered an agreement in 1988 which finds that the Coeur d'Alene tribe will have a slightly longer hunting season for deer and elk than non-tribal members, that the bag limit will be slightly higher, that the tribe will otherwise recognize seasons and special management areas delineated by the state, and that the tribe will enact an off-reservation hunting and fishing code for tribal members.

Kootenai of Idaho

The Idaho Supreme Court established that the the Kootenai Tribe of Idaho retains hunting and fishing rights described in the Hellgate treaty, but the rights were ascertained in a round about fashion. In 1974, a case known as *State v. Coffee*, involved a Kootenai tribal member who maintained she had aboriginal rights (i.e. rights which exist with original title to the land) to hunt and fish in the area traditionally occupied by her tribe (Cohen, 1982). The court found that aboriginal title does include hunting and fishing rights but, in this instance, the rights had been relinquished with the Hellgate Treaty (Cohen, 1982). Even though this lower band of Kootenais were not a named party to the Hellgate treaty, the United States had nonetheless assumed control of the tribe's aboriginal homeland when the treaty was ratified (Cohen, 1982). It was then established that since their aboriginal rights had been extinguished by the Hellgate treaty, the Kootenai of Idaho can exercise those rights reserved in the treaty (Cohen, 1982). Consequently, members of the tribe have the right to hunt and fish the open and unclaimed land in their usual and accustomed territory.

Blackfeet

The Blackfeet tribe has an acknowledged right to hunt and fish off-reservation, but in a rather limited manner. In the 1896 Agreement, the Blackfeet tribe reserved certain rights and received payment in exchange for ceding approximately 800,000 acres of land in what is now the Lewis and Clark National Forest and Glacier National Park and is referred to as the "ceded strip" (Pitt, 1985). Language in the 1896 agreement states:

"That the said Indians hereby reserve and retain the right to hunt upon said lands and to fish in the streams thereof so long as the same shall remain public lands of the United States under and in accordance with the provisions of the game and fish laws of the State of Montana".

The additional wording of hunting and fishing in accordance with the provisions of the game and fish laws of the State of Montana seems to be unique in reserved hunting and fishing rights in ceded lands. In a sense, the rights are not any different than those of any citizen of the state.

While still a student at the University of Montana, an Office of General Council lawyer for the United States Department of Agriculture explored the implications and construction of that language in a paper on Blackfeet treaty rights in the ceded strip. He hypothesized that the language was inserted based on circumstances happening concurrently in the state of Wyoming. At the time, a group of Bannocks hunting off-reservation for subsistence purposes were causing a conflict with the profitable commercial hunting guide operation in the state (Pitt, 1985). Some Bannocks died in the event and a major uprising was eminent (Pitt, 1985).

The Wyoming conflict was finally settled by a 1896 U.S. Supreme Court case, *Ward v. Racehorse*, in favor of the commercial guides. In *Ward*, the court held that Wyoming's admittance to the union necessitated extinguishing Indian hunting and fishing treaty rights. Later U.S. Supreme Court cases, *U.S. v. Winans* (1905) and *U.S. v. Winters* (1908), impliedly overruled *Ward*, holding essentially that reservation of rights by the Indians is not superceded by statehood. Despite the U.S. Supreme Court's later clarification of Indian reserved rights, the originators of the Blackfeet Agreement may have had the Wyoming event in mind and included state authority over tribal hunting and fishing in order to avoid similar misunderstandings of reserved rights (Pitt, 1985).

The hunting and fishing portion of the agreement essentially reserved no rights to maintaining a subsistence livelihood. The clear wording in the agreement cannot be misconstrued or disregarded (Pitt, 1985). Therefore, the hunting and fishing rights retained by the Blackfeet in the ceded strip must be applied in accordance with Montana's game laws including the bag limits and restricted seasons and it is assumed that Blackfeet must comply with the state's laws or be subject to state prosecution for violation of those laws (Pitt, 1985). However, there is evidence that the tribe does not recognize state authority over tribal members hunting and fishing in the ceded lands, and consequently have implemented their own regulations and bag limits for tribal members in the ceded strip, which essentially mirror those of the state.

SECTION FOUR - TRIBAL FISH AND WILDLIFE PROGRAMS

Tribal fish and wildlife management programs have been a rather new professional responsibility for tribes. Historically, technical assistance for management of tribal fish and wildlife resources has been provided by the U.S. Fish and Wildlife Service (USFWS) as part of the Department of Interior's trust responsibility to tribes. In addition, states often assumed authority over non-members hunting and fishing on tribal lands and therefore essentially managed the resources. But with the court decisions in the 1970's affirming tribal management authority over off and on-reservation hunting and fishing, tribes have become more active in developing their own fish and wildlife programs. Court cases on Columbia River fishing rights emphasized the need for professional management of off-reservation fishing that could be done in a coordinated fashion. As a result, multi-tribal entities such as the Columbia River Intertribal Fish Commission and the Northwest Indian Fish Commission sprang into importance. In addition, contract and development funding became available for tribes to hire professional biologists on their own. Various organizations, including the Native American Fish and Wildlife Society, were also developed to promote the adequate management of tribal fish and wildlife.

Tribal fish and wildlife management programs vary in intensity and success, depending on the tribal leadership, amount of funding and the staff to implement their programs. Some tribes have complete administrative, research, management and enforcement programs. They have full support of the tribal leaders and are quite aggressive in resource management. Several have established outstanding hunting and fishing programs for recreationists and tribal members which return a considerable revenue to the tribe. Other tribes still rely on technical assistance from federal entities to manage their fish and wildlife resources. Given time and the opportunity to witness successful programs at work, it is inevitable that fish and wildlife programs will be adopted by every tribe in the United States.

Nez Perce Tribe Fish and Wildlife Program

The Nez Perce Fisheries Department was established in 1981 with a department director and a biologist, expanding over the years to a director, a staff of 8 biologists and 8 technicians. The director administers the program and is the spokesman for the staff; a senior fish biologist acts as the technical director and assists the other biologists and technicians in the implementation of a number of contracts.

The Fisheries Department is most active in research and hatchery projects, funded by contracts from the Bonneville Power Administration (BPA) and the Lower Snake River Compensation Program (LSRCP). As of 1990, they are involved in research evaluating the fish population dynamics in Dworshak reservoir; the quality

and quantity of habitat in the mainstem Clearwater River for various species of anadromous fish; and the effectiveness of outplanting hatchery fish to supplement natural anadromous stocks. Several tribal and multi-tribal salmon hatcheries are also proposed for the Clearwater and other Snake River drainages.

Other administrative duties are carried out under a PL-93-638 contract with the Bureau of Indian Affairs. These include: keeping abreast of Forest Service activities; harvest monitoring; and participating in the Columbia Basin Fish and Wildlife Authority (an organization of fish and wildlife management entities that coordinate with the Northwest Power Planning Council on fish and wildlife concerns). The tribe regulates treaty fishing and harvest in the Columbia River in conjunction with Columbia River Intertribal Fish Commission, and enforces its own regulations for subsistence fisheries at off-reservation "usual and accustomed" sites. The tribe does not have a licensing program for non-tribal or tribal hunting or fishing on tribal lands. These lands are generally closed to non-member hunting and fishing.

The Nez Perce Wildlife Department is relatively new, coming into existence in 1987. It is staffed by a director, two biologists and a technician and is funded by a number of different contracts. The director administers the program and is the spokesman for interagency coordination. The department is involved with habitat enhancement on tribal lands and is active in the Columbia Basin Fish and Wildlife Authority. As of 1990, the biologists were working on projects involving the development of wildlife management plans, assessing wildlife mitigation needs for Dworshak Reservoir, and monitoring deer and elk populations within the ceded lands.

Coeur d'Alene Tribe Fish and Wildlife Program

The Coeur d'Alene Tribe does not have a staff of fish and wildlife biologists but are actively regulate hunting and fishing. They receive technical management assistance from the State of Idaho, and the Upper Columbia United Tribes. The tribe has implemented a fish and game code for on-reservation hunting, fishing and trapping. Non-tribal members are permitted to hunt and fish on non-Indian lands within the reservation, as long as they are in compliance with State and Tribal hunting and fishing regulations. As part of the state/tribal agreement, the tribe has enacted a hunting and fishing code regulating off-reservation hunting and fishing by tribal members.

Kootenai Tribe of Idaho Fish and Wildlife Program

The Kootenai Tribe of Idaho has not employed fish and wildlife biologists. It receives assistance from Upper Columbia United Tribes. The tribe does not permit non-members to hunt and fish on tribal lands, and has not enacted a code to regulate tribal members hunting and fishing either on or off-reservation.

Upper Columbia United Tribes (UCUT)

In 1983 and 1984, four upper Columbia tribes--the Coeur d' Alene, Kootenai Tribe of Idaho, Kalispel and Spokane--were recognized as part of the "involved tribes" in the Columbia Basin Fish and Wildlife Program and received BPA funding to participate in the Columbia Basin Fish and Wildlife Authority. The tribes pooled their resources, established the Upper Columbia United Tribes (UCUT) organization, operating out of Eastern Washington University Cheney, Washington, and hired a biology professor at Eastern Washington University as its director. One of their first tasks was to develop a paper documenting the loss of their anadromous fishery due to construction of upper Columbia dams. The Northwest Power Planning Council approved the document and implemented a policy to substitute the anadromous fish losses with a resident fishery program.

Since then, UCUT has secured funding by congressional appropriations and BPA funding to implement its programs. With biologists employed by UCUT, the Coeur d'Alene Tribe is conducting an inventory of streams on the reservations to compile information on habitat for cutthroat and bull trout. If warranted by the survey, the tribe plans to initiate a habitat improvement program and possibly construct a hatchery. The Kootenai tribe, with assistance from UCUT, has received funding for constructing a sturgeon hatchery on the Kootenai River and is investigating the effects of Libby Dam flow fluctuations on sturgeon outplants. The state of Idaho is providing the leadership for both the river work and the hatchery; the tribe is providing the manpower. The state will help with the hatchery until the tribe is staffed to take over. UCUT is assisting in the effort by providing hatchery training for tribal members.

Confederated Salish and Kootenai Tribes Fish and Wildlife Program

The Confederated Salish and Kootenai tribes have a very active fish and wildlife management program. The tribes license, regulate and control hunting and fishing of tribal and non-members alike throughout the tribal owned lands, including the south half of Flathead Lake. The State of Montana, however, licenses, regulates and controls hunting by non-tribal members on non-tribal lands within the reservation. The tribes have established wildlife refuges in which no hunting is permitted and lands which can be hunted and fished only by tribal members. Currently big game hunting within the reservation is restricted to tribal members while non-members participate in waterfowl hunting and fishing. Tribal game wardens are responsible for enforcing tribal regulations. Management of fish and wildlife resources, including recommending seasons and regulations, is conducted by a staff of fish and wildlife biologists employed under the tribes branch of Natural Resources.

The fisheries program began in 1983 with a contract from Bonneville Power Administration to study the effects of Kerr Dam on the fisheries of Flathead lake and the downstream stretch of the Flathead River. In 1985, the tribe initiated its own fisheries program, supported by tribal funding. As of 1990, there were 3 professional

biologists, two technicians and 2 to 3 seasonal employees in the tribal fisheries program. One of the biologists is primarily an administrator; the other two biologists and technicians are occupied with field work.

A major focus of the current fisheries program is mitigation for the impacts of Kerr Dam on Flathead Lake and the mainstem Flathead River. Flathead Lake lost its valuable kokanee salmon fishery due to the operation of Kerr Dam and the introduction of mysis shrimp which compete with young kokanee for food. The tribes are considering an extensive hatchery program to either reestablish the kokanee fishery or strengthen the bull and cutthroat trout populations. In addition to the mitigation work, fisheries program activities include: managing streams to preserve the bull trout and wild cutthroat populations, conducting stream and lake inventories, creel census, and assisting the USFWS in stocking the reservation rivers and streams.

The Wildlife Program began in 1987-1988. Prior to that, the BIA provided technical assistance for managing wildlife. The program employs two professional biologists and one trainee and is also involved in mitigation work for Kerr Dam. Wildlife mitigation includes a combination of habitat acquisition and habitat improvement projects, such as cattail management and construction of canada geese nests. Other wildlife program activities focus on maintaining an active role in interagency grizzly bear and bald eagle management efforts; providing input into the tribal timber program; and documenting waterfowl harvests. Although the wildlife department does not yet have a program to assess big game harvests on the reservation, they are considering a reporting system to help determine population dynamics of the herds. In addition, the off-reservation moose harvest is an issue of great concern. The tribe has implemented a permit system to assess the number harvested by tribal members.

Blackfeet Fish and Wildlife Program

As of 1990, the Blackfeet Fish and Wildlife department consists of four game wardens, two temporary wardens and a BIA grizzly bear biologist. The USFWS provides technical assistance for fish and wildlife management. The Blackfeet staff wardens enforce regulations for their hunting and fishing program. The program, funded by a PL 93-638 contract with the BIA, is managed by a Fish and Wildlife board of five council members. Big game hunting on the reservation is restricted to tribal members. Non-members who purchase tribal permits can hunt upland birds and waterfowl and fish. Hunting by tribal members in the off-reservation "ceded strip" is enforced by tribal game wardens. The tribe establishes the seasons, limits, gear restrictions and hunting and fishing units. Regulations are drawn up in-house based on population data collected by the tribe and the USFWS.

The Blackfeet Reservation contains an abundance of wildlife and fish habitat, and has great potential to develop a substantial recreational hunting and fishing program. Although the big game populations have been overhunted in the past, the tribe has been successful in reversing this trend by establishing elk refuges. The tribe, in conjunction with the USFWS, is working to renovate lakes and stimulate more fishing activity by

adding recreational facilities. In addition, the grizzly bear biologist insures that the tribe is active in interagency coordination efforts for management of the bear.

SECTION FIVE - RECOMMENDATIONS ON FOREST SERVICE-TRIBAL RELATIONS IN FISH AND WILDLIFE

While developing this information paper, interviews were conducted with representatives of tribes in the Northern Region to obtain information about (a) tribal fish and wildlife programs, (b) issues that the Forest Service should be aware of and (c) recommendations to facilitate or enhance our relationship. In addition, information from the various Northern Region Forests was collected to ascertain the status of current relationships with tribes on wildlife and fisheries matters and to seek recommendations to improve and enhance these working relationships.

It appears there has been some degree of success in initiating and maintaining a good working relationship with the tribes on fish and wildlife issues. Some highlights are worth reporting:

- * The Regional Office played a key role in bringing about a treaty rights workshop, sponsored by Columbia River Intertribal Fish Commission and the Nez Perce Tribe, in the spring of 1989.
- * The Nez Perce Tribe, Columbia River Intertribal Fish Commission, Regional Office and the Nez Perce and Clearwater National Forests have worked on strengthening the fisheries standards and guidelines in the Forest Plans, developing a more comprehensive method to conduct effects analysis for forest management activities, and developing a tri-regional anadromous fish management policy for National Forests.
- * The Clearwater Forest provided training to Nez Perce tribal fisheries technicians on habitat improvement projects during 1989 and has hired two former tribal fish biologists. They will bring an increased understanding of tribal issues to the Forest.
- * The Nez Perce Forest has worked closely with the Nez Perce Tribe in developing outplanting sites and satellite rearing ponds as part of the proposed Nez Perce hatchery. They are also cooperating with the tribe on fish passage improvement projects.
- * Staff from the Confederated Salish and Kootenai tribes have established good working relationships with biologists on the Lolo, Flathead and Kootenai National Forest. The tribes and forests have been active in habitat improvement projects and interagency coordination efforts, such as management of the grizzly bear, bald eagle and watchable wildlife.

- * The Blackfeet Tribe and the Lewis and Clark National Forest developed a challenge cost-share project for fisheries habitat improvement on National Forest and adjacent tribal lands. The Forest is anxious to initiate a cooperative habitat improvement program and coordination on interagency grizzly bear management efforts.

Recommendations for improving and enhancing tribal-Forest Service relationships on fish and wildlife issues, reported during the interview process, are discussed below.

- * The Forest Service and the tribes will be taking a greater role in management of fish and wildlife resources in the future. It is imperative that our agencies continue working together. The tribes can be an important ally in seeking the funding and programs necessary to develop the Forest Service's fish and wildlife programs and, in turn, the resources upon which tribes depend for subsistence and traditional uses will be given the emphasis they need.
- * Even though most tribes may not have off-reservation hunting and fishing rights, the game and fish utilized on the reservations are often dependent on surrounding Forest Service lands. The Forest Service should be cognizant that management will effect these resources, and should work closely with their neighboring tribes.
- * A lack of funding may limit a tribe's ability to participate in activities outside the scope of its particular contracts. In areas where coordination between a tribe and forest is critical, it could be advantageous to explore ways to insure that a cooperative relationship exists. Recommendations include forming interpersonal agreements and communication links through the Data General system.
- * When asked, the Forest Service can provide invaluable assistance to tribes in habitat improvement projects through on-the-job training and/or advisement.
- * Many tribes are adding professional biologists to their staffs; coordination, communication and interaction by the Forest Service with tribal biologists needs to become as much a second nature as is coordination, communication and interaction with state Fish and Game biologists.
- * Forest Service employees should become familiar with tribal histories. These histories are often the basis for the tribe's perspectives on fish and wildlife issues and hunting and fishing treaty rights. Although this paper is a start in that direction, there is an abundance of literature available on tribal histories. Training sessions provided in coordination with the tribes can provide further insight into the nature of tribal issues.

- * The Nez Perce Tribe is proposing the development of a hatchery program which involves rearing fish on Forest Service lands. Forest Service management activities in the watersheds where the rearing ponds are proposed will be critical to the success of the program. Coordination here is essential.
- * Challenge cost-share and other habitat improvement projects should be pursued with the tribes. Presently, a number of tribes are seeking to establish co-management responsibilities in ceded lands. Involving tribes in this type of project, can help in substantiating Indian claims in ceded lands. Although tribal funding may be limited, tribes often have equipment, personal or resources to contribute.
- * The Forest Service can provide training, especially for the Coeur d'Alene and Kootenai Tribes, on the forest planning process, so that the tribes will be aware of the opportunities to comment on issues that concern them.

SECTION SIX - TRIBAL CONTACTS FOR FISH AND WILDLIFE ISSUES

Arapahoe Business Council
P.O. Box 396
Fort Washakie, WY 82514
(406) 332-3532

Blackfeet Tribal Business Council
P.O. Box 850
Browning, MT 59417
(406) 338-7276

Burns-Paiute Indian Colony
P.O. Box 71
Burns, OR 97720
(503) 573-2088

Chippewa Cree Business Committee
Rocky Boy Route - P.O. Box 544
Box Elder, MT 59521
(406) 395-4727/4284

Coeur d'Alene Tribe
P.O. Box
Plummer, ID 83851
(208) 274-3101

Colville Confederated Tribe
P.O. Box 150
Nespelem, WA 99155
(509) 634-4711

Confederated Salish & Kootenai Tribes
P.O. Box 98
Pablo, MT 59855
(406) 675-2700

Confederated Tribes & Bands
Umatilla Indian Reservation
P.O. Box 638
Pendleton, OR 97801
(503) 276-3165

Confederated Tribes & Bands
Warm Springs Reservation
P.O. Box "C"
Warm Springs, OR 97761
(503) 553-1161

Confederated Tribes & Bands
Yakima Indian Nation
P.O. Box 151
Tuppenish, WA 98948
(509) 865-3121

Crow Tribal Council
P.O. Box 580
Crow Agency, MT 59022
(406) 638-2601

Fort Belknap Community Council
P.O. Box 249
Gros Ventre & Assiniboiné Tribes
Harlem, MT 59526
(406) 353-2205

Fort Peck Tribal Executive Board
P.O. Box 1027
Assiniboiné & Sioux Tribes
Poplar, MT 59255
(406) 768-5311

Kalispell Business Committee
P.O. Box 38
Usk, WA 99180
(509) 445-1147

Kootenai Tribal Council
P.O. Box 1002
Bonners Ferry, ID 83805
(208) 267-3519

Nez Perce Tribe
P.O. Box 305
Lapwai, ID 83450
(208) 843-2253

Northern Cheyenne Tribal Council
P.O. Box 128
Lame Deer, MT 59043
(406) 477-6284

Shoshone-Bannock Tribes
P.O. Box 306
Fort Hall, ID 83201
(208) 238-3900

Shoshone Business Council
P.O. Box 217
Fort Washakie, WY 82514
(307) 332-5006

Spokane Business Council
P.O. Box 385
Wellpinit, WA 99040
(509) 258-4561

INTER-TRIBAL ENTITIES

Columbia River Inter-Tribal Fish Commission
975 Southeast Sandy Blvd., Suite #202
Portland, OR 97214
(503) 238-0667

Native American Fish and Wildlife Society
750 Burbank Street
Broomfield, CO 80020
(303) 466-1725

Northwest Indian Fisheries Commission
6730 Martin Way East
Olympia, WA 98506
(206) 438-1180

Upper Columbia United Tribes
Eastern Washington University
Cheney, WA 99004
(509) 359-6397

BUREAU OF INDIAN AFFAIRS

Washington Office:

BIA Fish/Wildlife & Recreation
ATTN: Code 210
1951 Constitution Ave., N.W.
Washington, DC 20245
(202) 343-2088

Portland Area Office
P.O. Box 3785
1425 N.E. Irving
Portland, OR 97208
(503) 231-6749

Colville Agency
P.O. Box 111
Nespelem, WA 99155
(509) 634-4901

Flathead Agency
Box A
Pablo, MT 59855
(406) 675-2700

Fort Hall Agency
Fort Hall, ID 83203
(208) 232-5646

Northern Idaho Agency
P.O. Box 277
Lapwai, ID 83540
(208) 843-2267

Spokane Agency
P.O. Box 6
Wellpinit, WA 99040
(509) 258-4561

Umatilla Agency
P.O. Box 520
Pendleton, OR 97801
(503) 276-3811

Warm Springs Agency
Warm Springs, OR 97761
(503) 553-1121

Yakima Agency
P.O. Box 632
Oppenish, WA 98948
(509) 865-2255

Billings Area Office
316 North 26th Street
Billings, MT 59101
(406) 657-6484

Blackfeet Agency
Browning, MT 59417
(406) 338-7544

Crow Agency
Crow Agency, MT 59022
(406) 638-2672

Fort Belknap Agency
P.O. Box 98
Harlem, MT 59526
(406) 353-2901 ext. 23

Fort Peck Agency
P.O. Box 637
Poplar, MT 59255
(406) 768-5312

Northern Cheyenne Agency
Lame Deer, MT 59043
(406) 477-8242

Rocky Boy Agency
Box Elder, MT 59521
(406) 395-4476

Wind River Agency
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U.S. FISH AND WILDLIFE SERVICE

U.S. Fish and Wildlife Service
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